

Office of Statewide Health Planning and Development
Policy and Procedures for
PROTECTION OF PATIENT CONFIDENTIALITY

Background:

The Office of Statewide Health Planning and Development (OSHPD) administers a broad range of programs to assure the availability of needed, appropriate, and affordable health services to the residents of California. Some of the information that OSHPD collects includes financial, utilization, and patient care information from hospitals, long-term care facilities, clinics, and home health agencies. The Office makes this information available to the public to promote informed decision-making in the health care marketplace, to assess the effectiveness of California's health care systems, and to support statewide health policy development and evaluation.

Included among the OSHPD information programs is the Patient Discharge Data Program, which collects and disseminates data on all patients discharged from all of California's non-federal licensed hospitals. The Patient Discharge Data Program was implemented on July 1, 1981, with hospitals reporting 12 key data elements describing each patient discharged. These data elements were augmented by legislation in 1983 and again in 1988. At present, the discharge data set includes patient demographic information (birth date, gender, race, zip code of residency, social security number), diagnostic information (principal diagnosis, other diagnoses, and external cause of injury codes), treatment information (source and type of admission, dates of admission and discharge, principal procedure and date performed, other procedures and dates performed, disposition upon discharge), and total charges with expected principal source of payment. With these data, the Office computes and assigns an appropriate major Diagnostic Category (MDC) and Diagnosis Related Group (DRG) for each discharge data record.

Recognizing the sensitivity of patient medical information, the Legislature expressly provided that "patient's rights of confidentiality shall not be violated in any manner". The Office has adopted and maintained a written policy governing disclosure of discharge data to the public. This policy restricts access to data elements that, singly or in combination with other data elements, might compromise patient confidentiality. For example, it is relatively easy to obtain, from various sources, information relating to a person's birth date, zip code of residency, date of admission to a particular hospital, and the date of discharge. By using all or parts of this information, one could possibly identify a specific person within the Office's patient discharge data set and obtain additional information about his or her medical problems that occasioned the admission and subsequent treatment. To prevent this from occurring, the Office masks certain data elements in publicly available databases.

The purpose of this policy is to set forth procedures that protect patients' rights to confidentiality while at the same time allowing for effective use of the data for appropriate purposes.

Policy Statement:

In accord with its specific statutory mandate to protect patient confidentiality, it is the policy of the Office of Statewide Health Planning and Development that no data which could be used to determine the identity of an individual patient shall be made available to any person or entity except: when requested by the person to whom the information pertains; pursuant to a subpoena, court order or compulsory legal process; or as allowed in the Office's disclosure provisions for non-public data.

Disclosure Provisions:

A. Publicly Available Data

Because certain data elements in the patient discharge data records may be used in combination with other information to ascertain the identity of a patient, the Office will routinely make available to the public only patient discharge records which have been modified to protect patient identities. The records will be modified and available in two versions as follows:

For Version A:

- Social Security numbers are converted to a "record linkage number" by a process approved by the Director. These numbers allow for the accurate linkage of episodes of hospitalization.
- The age of a patient at the time of discharge is used instead of date of birth
- Admission dates are available as the day of the week and the month of the year of admission
- Discharge dates are available as the number of days from admission to discharge (total length-of-stay)
- Dates of procedures are available as the number of days between admission and the date of each procedure
- Three digit zip codes are used instead of the five digit value

For Version B:

- Neither social security numbers nor record linkage numbers are available
- Age categories are used for a patient's age at time of discharge instead of date of birth (see attachment 5)
- Admission dates are available as the quarter of the year of admission

- Discharge dates are available as the number of days from admission to discharge (total length-of-stay)
- Dates of procedures are available as the number of days between admission and the date of each procedure

<u>Version A</u>	<u>Version B</u>
Hospital Facility Number	Hospital Facility Number
Age (days and/or years)	Age Category
Sex	Sex
Race	Race
First 3 Digits of Zip Code of Residence	Full 5 Digits of Zip Code of Residence
Length of Stay	Length of Stay
Admission Day of Week	-----
Admission Month	Quarter of Admission
Admission Year	Admission Year
Source of Admission	Source of Admission
Type of Admission	Type of Admission
Principal Diagnosis	Principal Diagnosis
Principal Procedure	Principal Procedure
Disposition of Patient	Disposition of Patient
Source of Payment	Source of Payment
Total Charges	Total Charges
Diagnosis Related Group (DRG)	Diagnosis Related Group (DRG)
Other Diagnoses	Other Diagnoses
Other Procedures	Other Procedures
Days Between Admit & Procedures	Days Between Admit & Procedures
External Cause of Injury - Principal E-Code	External Cause of Injury - Principal E-Code
External cause of Injury - Other E-Codes	External cause of Injury - Other B-Codes
Major Diagnostic Category (MDC)	Major Diagnostic Category (MDC)
Record Linkage Number	-----

In addition, any set of data that includes only data elements from Version A or only data elements from Version B is publicly available.

Publicly available data may be obtained via the Office's Data Users Support Group, in such a manner and at such prices as the Deputy Director of the Health Facility Data Division may prescribe.

B. Non-public Data

All requests for patient social security numbers, dates of birth, admission dates, procedure dates, discharge dates or the combination of five digit zip code, admission day of week, admission month, age, or record linkage number shall be submitted in writing to the Data Users Support Group using the appropriate request form. Those requesting confidential non-public data should

use "Request for Confidential Discharge Data" (Attachment 3). Use "Request for Non-Public Patient Discharge Data" (Attachment 1) for requests for all other non-public data. Such requests must include: citation of the requestor's legal authority to obtain any personal or confidential data, a list of the data elements and a precise definition of which patient records are needed, a description of the purposes for which the data are to be used, an explanation as to why the publicly available records cannot be used to adequately achieve those purposes, and a plan for maintaining the security of the data. In addition to the above requirements, requests for non-public discharge data other than requests for confidential data must include a description of the methods to be used in analysis of the data.

Upon receipt of the request, it will be evaluated by staff of the Data Users Support Group, the Patient Discharge Data Section, and the Office's Information Security Officer. First, they will determine whether the requester could meet his or her needs using techniques that would not require the release of any non-public data. If so, the request will be denied and alternative information will be provided to meet the requestor's needs. However, if such techniques are not available, staff will determine whether the data requested could be used to ascertain any individual patient's identity. Patient social security numbers, by definition, can always be used to determine a patient's identity. Based on the advice of the Data Users Support Group, the Patient Discharge Data Section, and the Office's Information Security Officer, the Deputy Director of the Health Facility Data Division will determine whether release of patient birth dates, admissions dates, admission day of week, admission month, procedure dates, discharge dates, age, five digit zip code, or record linkage number, in the particular combination requested, can be used to determine patient identities. If it is determined that the data elements requested cannot be used to determine patient identities, the Deputy Director of the Health Facility Data Division may approve the release of data which are not otherwise available to the public. The requester may be required to pay for special programming costs.

If it is determined that the data elements requested, when used as proposed in the request for non-public data (Attachment 1), cannot be used to determine patient identity, but that with other uses or further release of the data the potential could exist for deductive identification of individual records, then the Deputy Director may approve the release of the non-public data only if the requester agrees to be bound by the terms of the request and to assume full responsibility for any use made of the data. Once such a request for non-public data has been approved by the Office, the requester will be required to sign the Office's Agreement for Use of Non-Public Discharge Data (Attachment 2).

Any additional use or distribution of non-public data elements (i.e. any single data element or combination of data elements not available on either the Version A or Version B public tapes) must be approved, in writing, by the office. Written permission will be made only after a written request has been reviewed and approved by the Office. The request must reference the -previously approved request and must describe the non-public data for which additional use is proposed, the proposed additional use and how it differs from the previously approved use of the data, and the purpose of the new project.

If the request is for confidential non-public data, specifically patient social security numbers or non-public data elements which can be used in combination to determine a patient's identity, the requestor must obtain the approval of the Committee for the Protection of Human Subjects, pursuant to the 1983 Policy Statement of the Secretary of the Health and Welfare Agency. If this Committee does not approve the proposed research protocol or other proposed use of the data, the Office will deny the request. If the Committee approves the requestor's proposal, he or she must submit to the Data Users Support Group a copy of all materials submitted to the Committee for its consideration, a copy of the Committee's letter approving the requestor's proposed use of the confidential data, and a signed Agreement to Preserve Patient Confidentiality (Attachment 2) before any further action is taken on the request.

Upon receipt of these materials, the Manager of the Data Users Support Group will forward a copy of the request and all related materials to the Manager of the Patient Discharge Data Section, the Office's Information security Officer, and the Office's Chief Counsel. They will consider the request in light of the provisions of the Health Data and Advisory Council Consolidation Act, the Public Records Act, the Information Practices Act, this policy and any other applicable standards. Each will prepare a written recommendation regarding approval/denial of the request.

The Manager of the Data Users Support Group will forward to the Deputy Director a proposed response to the requester including any stipulations or requirements to which the requester must adhere if the requested data are to be provided, the above-mentioned written recommendations of other office staff, and a copy of the request with all related materials (including Attachments 1 and 2, and all materials provided to the Committee for the Protection of Human Subjects). The Deputy Director will approve or deny the request, and advise the Director via a copy of the final response to the requester. The decision of the Deputy Director may be appealed to the Director of the Office of Statewide Health Planning and Development.

Consequences of Unauthorized Disclosure of Confidential Data:

The intentional unauthorized release of confidential data by an employee will constitute a cause for disciplinary action in accordance with Government Code Section 19572. Disciplinary action may include suspension without pay, dismissal, and/or criminal prosecution.

Consequences for unauthorized release of confidential data by individuals and entities which have received such data from the Office pursuant to this policy and procedure include potential civil and criminal actions.

David Werdegarr, M.D., M.P.H.
Director

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